



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,945	03/21/2001	Said Sebt	USF-T141X	1290

23557 7590 02/25/2005

SALIWANCHIK LLOYD & SALIWANCHIK  
A PROFESSIONAL ASSOCIATION  
PO BOX 142950  
GAINESVILLE, FL 32614-2950

EXAMINER

GUPTA, ANISH

ART UNIT	PAPER NUMBER
----------	--------------

1654

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/811,945

Applicant(s)

SEBTI ET AL.

Examiner

Anish Gupta

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-23 is/are pending in the application.
- 4a) Of the above claim(s) 7-14 and 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election with traverse of Group I, Claims 1-6 and 15-17 in the reply filed on 6-4-04 is acknowledged. Claims 7-14 and 18-21 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group II-V, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6-4-04. Applicant's request for rejoined of the non-elected process claims is acknowledged. Rejoinder will be considered upon allowance of the product claim.

2. The amendment filed 11-22-04 is acknowledged. Claims 1, 3, 5, 15-17 were amended. Claims 1, 3-23 are pending in this application.

1. The indicated allowability of claims 15-16 is withdrawn.

Maintained rejections

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 3, 6 and 15-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention for the reasons set forth in the previous office action and the reasons set forth below.

Applicants argue that since claim 1 has been amended to recite that the organic scaffold can be calixarene or a (C8-C12) aryl and since the specification discloses numerous substituents for the peptide loops and the peptide loops themselves, the rejection should be withdrawn.

Applicants' arguments have been fully considered but have not been found persuasive.

Claim 1 has been amended to recite that the calixarene ring or the aryl ring has peptide loops to which different peptides are bonded. The specification is limited to peptide loops that contain five peptide units to which are bonded tetrapeptides. Beyond these specific structural limitations, the specification does not disclose other peptide loops or units that can be incorporated onto the calixarene or a (C8-C12) aryl. The possible structural variations are limitless to any class of peptides or organic molecule. The specification lacks sufficient variety of species to reflect this variance in the genus since the specification does not provide sufficient number of examples. Similar problem exists for the "functionally related derivatives thereof." It is unclear what modification and/or alterations are necessary to render the tetrapeptide a functionally related derivative. The derivative is identified by the function alone. This has been deemed to be insufficient for written description purposes. Accordingly, it is deemed that the specification fails to provide adequate written description for the genus of the claims and does not reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the entire scope of the claimed invention.

#### New Grounds For Rejections

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 1654

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite "functionally related derivatives" of the claimed tetrapeptides. It is unclear what alterations or modifications can be made within the peptide units to still render them "functionally related derivatives." The specification does not provide any definition for these derivatives. Accordingly one cannot determine the meets and bounds of the claimed invention.

### **Withdrawn Rejections**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

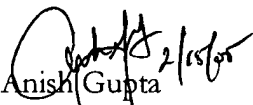
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The rejection of claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamilton et al. is hereby withdrawn.
5. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 1654

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell, can normally be reached on (571) 272-0974. The fax phone number of this group is (571)-273-8300.

  
Anish Gupta  
Patent Examiner